

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Kenneth Botehlo,  
Petitioner

v.

Civil No. 08-cv-66-SM

United States of America,  
Respondent

**O R D E R**

Petitioner seeks relief from his conviction and sentence pursuant to 28 U.S.C. § 2255.

The grounds upon which the petition rests are unclear – but petitioner seems to vaguely challenge the determination at sentencing that he qualified as a career offender under the federal sentencing guidelines, and he suggests that, in some undescribed way, his legal counsel provided ineffective assistance in failing to successfully challenge that result. Petitioner had two prior qualifying predicate felony drug convictions, so was properly determined to be a career offender under the guidelines (indeed he was facing state sentencing on yet another drug conviction).

Counsel did not provide ineffective assistance because defendant plainly did qualify as a career offender and nothing counsel could have plausibly argued would have changed that result.

The petition, and the files and records of the case conclusively show that petitioner is not entitled to relief. The sentence imposed was authorized by law and there has been no denial or infringement of petitioner's constitutional rights.

**Conclusion**

The petition is denied. The clerk shall close the case.

**SO ORDERED.**

  
Steven J. McAuliffe  
Chief Judge

March 4, 2008

cc: Kenneth Botelho, pro se  
Aixa Maldonado-Quinones, AUSA